

**DEC 16 2005**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

BLAKE WINGLE,

Plaintiff - Appellant,

v.

INTERNAL REVENUE SERVICE,

Defendant - Appellee.

No. 05-15294

D.C. No. CV-03-06122-AWI

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted December 5, 2005 <sup>\*\*</sup>

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Blake Wingle appeals pro se the district court's order denying his motion to reconsider its prior order dismissing his civil rights action. To the extent we have jurisdiction it is conferred by 28 U.S.C. § 1291. We affirm.

Because Wingle failed to file his motion for reconsideration within 10 days after entry of the final order, the motion for reconsideration did not toll the time to file an appeal. *See* Fed. R. App. P. 4(a)(4)(A)(vi). Therefore, we lack jurisdiction to address the order entered by the district court on August 30, 2004. *See Am. Ass'n of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1109 (9th Cir. 2000).

We review for abuse of discretion the district court's denial of a Fed. R. Civ. P. 60(b) motion. *See Bateman v. United States Postal Serv.*, 231 F.3d 1220, 1223 (9th Cir. 2000). The district court did not abuse its discretion in denying Wingle's Rule 60(b) motion because he failed to demonstrate mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, or any other basis for relief from judgment. *See id.*

**AFFIRMED.**